

# CABINET

<b>DATE</b>	30 November 2023
<b>REPORT OF</b>	Councillor Phillip Jackson, Leader of the Council and Portfolio Holder for Economy, Net Zero, Skills and Housing:
<b>RESPONSIBLE OFFICER</b>	Sharon Wroot, Executive Director Place and Resources
<b>SUBJECT</b>	Pioneer Business Park
<b>STATUS</b>	Open Report.  Closed Appendix <b>NOT FOR PUBLICATION</b> Exempt information within paragraph 3 Schedule 12A to the Local Government Act 1972 (as amended)
<b>FORWARD PLAN REF NO.</b>	Not included on the Forward Plan therefore, to be considered as an urgent item under the Special Urgency provisions of the Constitution and with the permission of the Economy Scrutiny Chair.

## CONTRIBUTION TO OUR AIMS

Pioneer Business Park (PBP) is a strand of the South Humber Industrial Investment Programme (SHIIP) with a specific aim of supporting a 'Stronger Economy' through the development of industrial development land. The development of the site by a large private sector business will see investment and jobs created whilst also generating business rates the Council is able to retain and furthermore, a material capital receipt. The wider SHIIP programme has already supported the priority of 'Stronger Economy' through the provision of a new link road, two ecological mitigation sites and the development of the HETA facility together with the initial Myenergi development and subsequent expansion.

## EXECUTIVE SUMMARY

The report sets out a proposal to sell land at PBP to Associated British Ports (ABP) which has also agreed terms to acquire all remaining land in third party ownership. Such a disposal is, on balance, more likely to see development, associated investment, jobs and business rates come forward at a faster pace than would otherwise be the case. The disposal by way of sale will also see a material capital receipt paid to the Council for its interest in the land.

## RECOMMENDATIONS

It is recommended that Cabinet:

1. Approves the principle of the disposal as set out in the report.
2. Delegates authority to the Executive Director Place and Resources to immediately exchange contracts committing the Council to a simultaneous completion of the sale.
3. Authorises the Assistant Director Law and Governance (Monitoring Officer)

to immediately execute all documentation arising.

## **REASONS FOR DECISION**

To facilitate the further development of Pioneer Business Park whilst also realising a material capital receipt.

### **1. BACKGROUND**

- 1.1 The initial SHIIP business case was considered at Cabinet on 8 July 2015. Subsequent reports were received in January 2016, December 2017, January 2021 and July 2022. Given the complexities of developing close to the estuary, the primary goal of the programme was to de-risk development with the impact being a mix of investment, jobs and retained business rates on the Enterprise Zone sites on the South Humber bank. The most recent programme consists of three key projects, together with running costs, being:
  - The Stallingborough Industrial Development Site (now known as Pioneer Business Park)
  - The new Humber Link Road
  - The Strategic Mitigation Project
- 1.2 The main premise of SHIIP is to enable industrial development and the financing has been through corporate borrowing and external funding, with a worked assumption that the retained business rates generated would more than cover the corporate borrowing sums over the term of the Enterprise Zone status, which expires in 2041. The current financial model is not predicated on any capital receipts.
- 1.3 The two first phases of the strategic mitigation project have been completed which are now providing 150 acres of award-winning sustainable managed bird habitat. The link road has also completed. These two projects mean prospective investors benefit from significantly enhanced and resilient highway infrastructure and moreover, have an almost immediate solution to mitigating against the challenges of wintering birds which can otherwise cause circa 18 months of uncertainty and delay to proposed developments. Investors have cited these schemes as key factors in them considering North East Lincolnshire as a potential location and also, it demonstrates how it is possible to be ecologically responsible whilst still promoting economic growth.
- 1.4 PBP is the final project which seeks to enable circa 230 acres of industrial development land. Initial infrastructure including highway and utilities has been completed. The Council developed the first phase of Myenergi and subsequently sold land to both HETA, who have completed their flagship new build and, Myenergi, who have expanded their site presence significantly. The Council has also assembled elements of the remaining site.
- 1.5 The entire site, as shown at Appendix 1.0, is in several ownerships, including land acquired by the Council and subsequent disposals to others, as mentioned above. The Council has been seeking to directly facilitate Phases 1B and 2 and has been engaging with two third party landowners. Whilst Compulsory Purchase (CPO) arrangements have been put in place, the Council has continued

discussions with both parties with a view to reaching a mutually acceptable position. The Council has not been seeking to directly facilitate Phase 3 which is owned by separate parties.

- 1.6 In the meantime, a further opportunity arose to work with a single party to bring forward all land east of the Council's Phase 1A land as shown cross hatched at Appendix 2.0. The party is also acquiring third party land which is not allocated in the Local Plan as shaded green.

## **2. PROPOSAL**

- 2.1 The proposal is to dispose of, by way of sale, the land interests as outlined red at Appendix 3.0, being circa 28 acres of allocated development land, sundry land together with two small areas of land that enable access to circa 200 acres of allocated development land as outlined in Appendix 2.0.
- 2.2 ABP has a finite amount of space at the Port of Immingham and has been considering options for enabling more port related activity. They have identified this site as being sufficiently close to the port to allow related activities to be developed and as such, have been negotiating with all landowners and now have agreements in place to purchase the circa 200 acres referred to, together with some sundry unallocated interests.
- 2.3 The automotive industry is an important sector within North East Lincolnshire and for ABP. The disposal will include a mechanism whereby 80 acres of land, outlined blue at Appendix 4.0 can, subject to planning permission, be utilised for automotive storage. In order to encourage a variety of end uses outside of these 80 acres, should ABP utilise any of the remaining circa 120 acres (outlined red) of allocated land for automotive storage, they will need to pay the Council on the following basis:
  - £10k per acre per annum for the first 20 acres
  - £20k per acre per annum for the next 20 acres
  - £500k per acre for the remainder of the site

These arrangements will run until the end of Enterprise Zone status in 2041.

- 2.4 The consideration to the Council for the circa 28 acres of development land, together with the sundry and access land, is £20.5m together with any payments that may become due with regards to automotive storage.

## **3. ALIGNMENT WITH STRATEGY**

- 3.1 A strategic role of the Council is to facilitate and enable change, intervening only where appropriate and necessary. The fact a private sector business has come forward to assemble the entire site demonstrates that the interventions the Council has made have stimulated the market.
- 3.2 Notwithstanding the Council has successfully enabled a number of developments on the first phase, it was envisaged that, given the magnitude of the site, a partner of some sort would be required that was able to be responsive

to changing market needs and capable of developing at scale and pace.

- 3.3 On this basis, ABP assembling the site in one go aligns firmly to the requirement to enable development land. This approach will likely mean development occurs at a pace that would otherwise be unachievable given ongoing land negotiations.
- 3.4 Moreover, the mechanism to encourage a variety of end uses means that there is some, albeit not completely certain, assurance that a material element of the site will be built out. In any event, whatever the use, the Council will benefit from retained business rates given Enterprise Zone status.

#### **4. INDUSTRIAL UNITS**

- 4.1 The Council has secured, in-principle, £15m of seed capital funding through the Humber Freeport for a number of projects, including supporting new industrial units on PBP. This transaction does not impact on this project which is expected to be built out on retained land in Phase 1A.

#### **5. COMPLUSORY PURCHASE MATTERS**

##### *Current CPO*

- 5.1 As referred to above, the Council has been progressing a CPO on part of the site and appropriate delegations are in place.
- 5.2 ABP have asked the Council to continue progressing the CPO. This is to assist with the purchase of interests which ABP are unable to acquire from the existing landowners or the Council, either because they relate to rights and interests burdening those landowners title, or, to areas of unregistered land with no known ownership.
- 5.3 It is not unusual for developers to sponsor a CPO in order to achieve clean title, to ensure development can move forward as planned. However, the Council needs to be satisfied that there is a compelling case in the public interest for the use of compulsory purchase powers.
- 5.4 The only parties which have made objection to the CPO are the current landowners. It is common ground that the current landowners are considered unlikely to maintain any objections, on the basis of the agreements in place for ABP to purchase their land interests. No other parties made objections within the statutory objection period for the current CPO. Therefore, the chances of sustained objectors coming to the fore is limited.
- 5.5 The Council's advisors are satisfied that the purchase and development of the site by ABP is in line with the justification for compulsory purchase as set out in Statement of Reasons (June 2023) and there remains a compelling case in the public interest to acquire the plots referred to in the CPO.
- 5.6 Following confirmation of the CPO, and once the relevant land interests are vested in the Council, the Council will transfer those interests to ABP. The vesting and transfer will exclude any interests of the third party landowners, with whom

ABP are directly negotiating.

- 5.7 From the date of completing the transaction, ABP will cover all costs associated with the CPO and also provide an indemnity for any compensation payable.

*Further CPO*

- 5.8 As set out above, the Council has not to date been pursuing negotiations or compulsory purchase of land forming part of Phase 3. As with the current CPO, Phase 3 includes land which is unregistered and to which initial investigations have revealed no known landowner.
- 5.9 To ensure that the land being purchased by ABP from the Council and the other landowners is contiguous with the highway, and to avoid strips of land across the wider site being in unknown ownership, ABP have requested that the Council promote a further CPO (the "Further CPO").
- 5.10 The areas proposed to be covered by this Further CPO are shown at Appendix 5.0.
- 5.11 Initial title investigations have not revealed any owners of the areas to be included within the proposed Further CPO. Nor have any owners come forward for these areas as part of the Local Plan allocation process.
- 5.12 It is now proposed to carry out all necessary preparatory steps including referencing, any statutory consultation requirements and preparation of statutory documents and a Statement of Reasons in accordance with the provisions of 226(1)(a) and 226(3)(a) of the Town and Country Planning Act 1990 and associated recognised good practice.
- 5.13 It is intended to present this to Cabinet in a further meeting in order that the full merits of progressing the Further CPO can be considered, including whether there is a compelling case in the public interest for the use of compulsory purchase powers.
- 5.14 If the Council were to progress a Further CPO:
- 5.14.1 The Council would transfer the interest in the relevant plots for no consideration; and
- 5.14.2 ABP would cover costs associated with that Further CPO and also provide an indemnity for any compensation payable.

**6. EXTERNAL ADVICE**

- 6.1 This transaction has been considered by leading Counsel in terms of it being within the Council's powers, alignment with our objectives and the sum of £20.5m. Having considered the aims and objectives of the Council, its statutory status and the transaction itself, Counsel has confirmed support to the proposal and specifically, that it demonstrates value for money and is compliant with the requirements of S123 of the Local Government Act 1972.

## **7. SUMMARY**

- 7.1 The proposal will yield a significant capital receipt and put in place arrangements that are, on balance, far more likely to see early development of PBP and the associated benefits around investment, jobs, business rates and the confidence this will bring. Moreover, the Council's position around developing new industrial units is protected and there is a mechanism to encourage varied uses outside of automotive storage.

## **8. RISKS AND OPPORTUNITIES**

- 8.1 The disposal realises the opportunity to see development accelerated at PBP at a pace that was otherwise unachievable. This brings with it a variety of benefits as referred to in the main body of the report.
- 8.2 ABP could, upon further material payments, develop out the entire site for automotive uses. It is considered unlikely that this would happen but if there were sufficient demand, then this would still be supporting an important sector.
- 8.3 There is a residual risk that ABP do not develop out in a timely manner but given they are paying £20.5m to the Council alone, the total outlay for assembling this site is very significant indeed. It is therefore reasonable to assume that a prudent business will seek to deliver a return on this investment in as swift a time as possible.

## **9. OTHER OPTIONS CONSIDERED**

- 9.1 The Council could decide to continue to negotiate with the landowners and seek to assemble the site itself. If negotiations could not be concluded, this would mean reliance on the CPO process which would bring about delay and whilst Counsel is confident of the Council's position, is not without risk.
- 9.2 It would not be reasonably prudent to market the land in isolation as it requires a land assembly exercise to release the value.

## **10. REPUTATION AND COMMUNICATIONS CONSIDERATIONS**

- 10.1 The proposal ought to bring about positive reputational and communications opportunities. Bringing the wider site forward has benefits to the wider area and is likely to engender greater confidence in the locality.

## **11. FINANCIAL CONSIDERATIONS**

- 11.1 The proposed disposal will yield a substantial capital receipt that measures favourably against the capital outlay apportionable to the land being assembled.
- 11.2 The transaction has been subject to external scrutiny by leading Counsel to ensure it represents value for money, complies with the requirements of S123 of the Local Government Act 1972, and that the Council is acting within its remit.

11.3 The fundamental principles of SHIP remain in terms of, together with investment and jobs, the realisation of retained business rates. As stated above, it is anticipated that the disposal will help to accelerate development on the site and given Enterprise Zone status, the Council will therefore benefit directly from additional retained business rates.

11.4 The utilisation of any capital receipt would be subject to separate consideration but in any event would generate significant financial benefits for the Council. These benefits would be in the form of reduced capital financing costs, additional capacity to support transformational activities, and short-term investment returns on any cash balances.

## **12. CHILDREN AND YOUNG PEOPLE IMPLICATIONS**

12.1 The proposal does not have direct immediate implications for children and young people. However, investment in our economy creates more opportunities for all people, including children and young people.

## **13. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

13.1 The Council is disposing of land to enable development. ABP will need to comply with the regulatory framework around new builds including measures around energy efficiency and environmental matters.

## **14. CONSULTATION WITH SCRUTINY**

14.1 Whilst the SHIP Programme has been before Scrutiny on a number of occasions, this proposal has not been to Scrutiny.

## **15. FINANCIAL IMPLICATIONS**

15.1 As stated above, the proposed disposal would generate a significant capital receipt for the Council which would generate both short and long term financial benefits for the Council. The transaction will also help to accelerate development of the site and advance the receipt of retained business rates with the Enterprise Zone area.

## **16. LEGAL IMPLICATIONS**

16.1 The proposed sale of the subject land was not countenanced by the Council until the serious approach was made by ABP. However, the Council recognises in its commissioning plans and MTFP, the notion of asset disposal. The negotiations leading up to this point have been confidential, commercially sensitive and protected by appropriate non-disclosure and exclusivity agreements. As such the urgent nature of the report is recognised and supported.

16.2 As set out in the above report, the sale is consistent with the stated aims of the Council around enablement and facilitation, manifest by the approach and ultimate proposal.

- 16.3 The Council is able to dispose of any asset in such a manner as it sees fit subject to the constraint that any disposal is for the best consideration reasonably obtainable.
- 16.4 Whilst it is envisaged that both the Current CPO and any Further CPO (if authorised and made by the Council) will be supported by the current known landowners, it is nevertheless the case that the progress of any compulsory purchase order will be required to follow existing statutory procedures.
- 16.5 All parties will have the right to object (in accordance with statutory framework) to either compulsory purchase order and may attend any public inquiry arranged by the Secretary of State. Parties not included in a compulsory purchase order may still be afforded that right if the inquiry inspector agrees.
- 16.6 Any decision of the Council to make the Further CPO, or to make a vesting declaration to acquire interests in land (as may be authorised by either the current CPO or the Further CPO), may be challenged by way of judicial review proceedings. The Secretary of State may also be challenged relating to any decision to confirm a compulsory purchase order, following judicial review procedures.
- 16.7 Any owner whose interest is acquired by a compulsory purchase order will be entitled to receive compensation based on CPO Compensation Code principles. Should the quantum of compensation be disputed the matter can be referred to the Upper Tribunal (Lands Chamber) for determination.
- 16.8 The Council will be indemnified against such compensation costs by ABP, but will need to act in accordance with the terms of that indemnity to ensure the indemnity is not voided.
- 16.9 The Courts have held that this framework complies with the Convention and as such a decision to proceed with the recommendation is compatible with the Human Rights Act.
- 16.10 The full legal implications of deciding whether to authorise the making of the potential Further CPO will be set out to Cabinet prior to any decision on that matter.
- 16.11 It is of note that sponsorship of a CPO process by a developer seeking local authority intervention is not prevented by any statutory legislation or the governments CPO guidance – provided always that the power is exercised in accordance with the relevant guidance and legislation.

## **17. HUMAN RESOURCES IMPLICATIONS**

- 17.1 There are no human resource implications arising from the report.

## **18. WARD IMPLICATIONS**

- 18.1 The development of industrial land has implications for all Wards through the fact more investment and jobs are likely to be seen. PBP is within the Immingham

Ward.

## **19. BACKGROUND PAPERS**

Cabinet report - South Humber Industrial Investment Programme (SHIIP) – 8<sup>th</sup> July 2015.

Cabinet report – South Humber Industrial Investment Programme – 13<sup>th</sup> January 2016

Cabinet report – Review of South Humber Industrial Investment Programme, Investment and Return on Investment – 14<sup>th</sup> December 2017

Cabinet report – SHIIP Review and Stallingborough Compulsory Purchase Order – 13<sup>th</sup> January 2021

Cabinet report – Compulsory Purchase Order relating to land at Stallingborough Industrial Development Site – 20<sup>th</sup> July 2022

## **20. CONTACT OFFICERS**

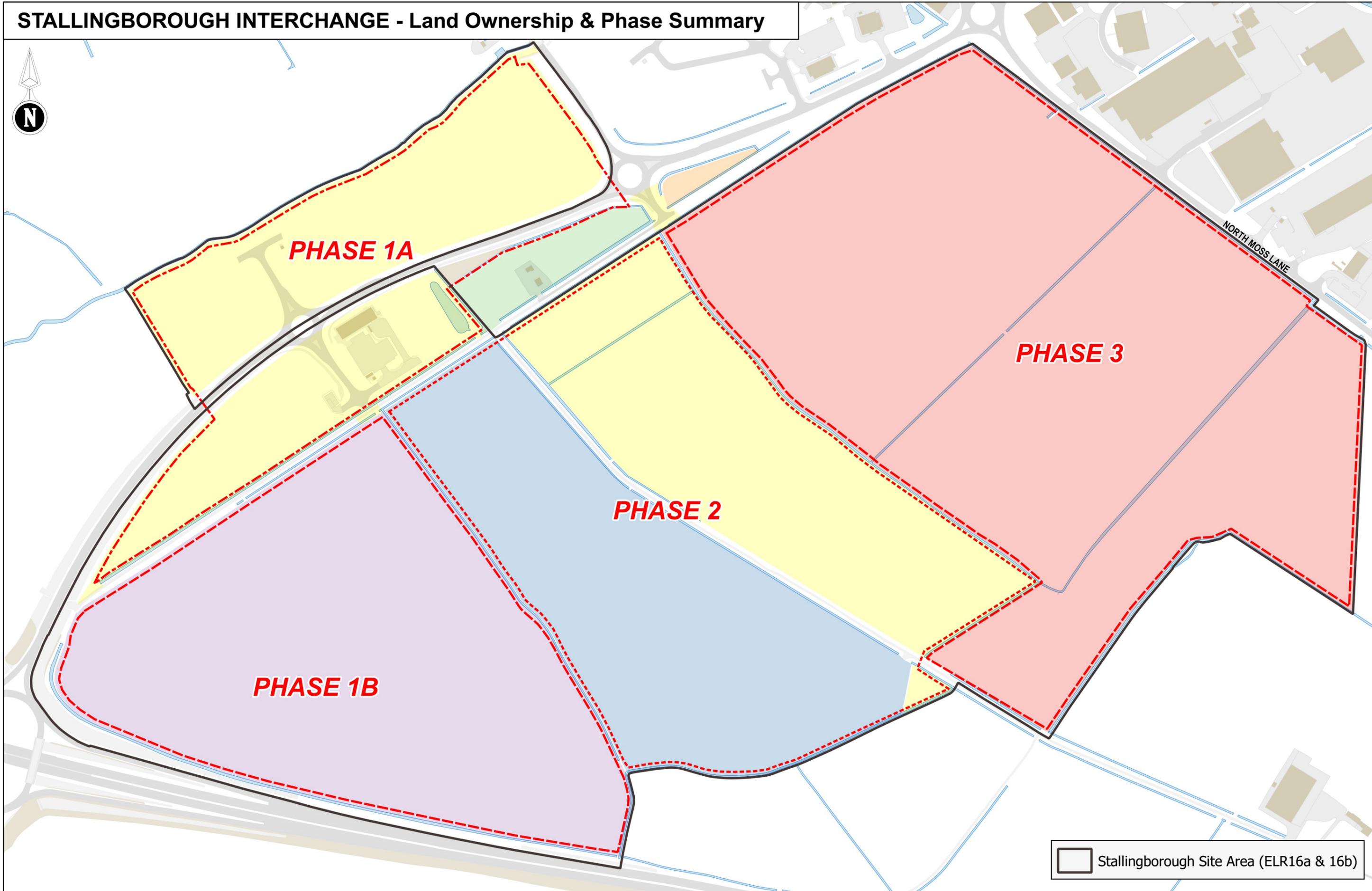
Damien Jaines-White, Assistant Director Regeneration.  
Keith Thompson, Lead Solicitor.

**Councillor Phillip Jackson,**  
Leader of the Council and  
Portfolio Holder for Economy,  
Net Zero, Skills and Housing



## **Appendix 1.0**

# STALLINGBOROUGH INTERCHANGE - Land Ownership & Phase Summary



 Stallingborough Site Area (ELR16a & 16b)

100 0 100 200 300 400 500 m

Details: Land ownership / Phasing Plan

Scale: 1:4,000 @ A3

Date: 28 - 11 - 2023



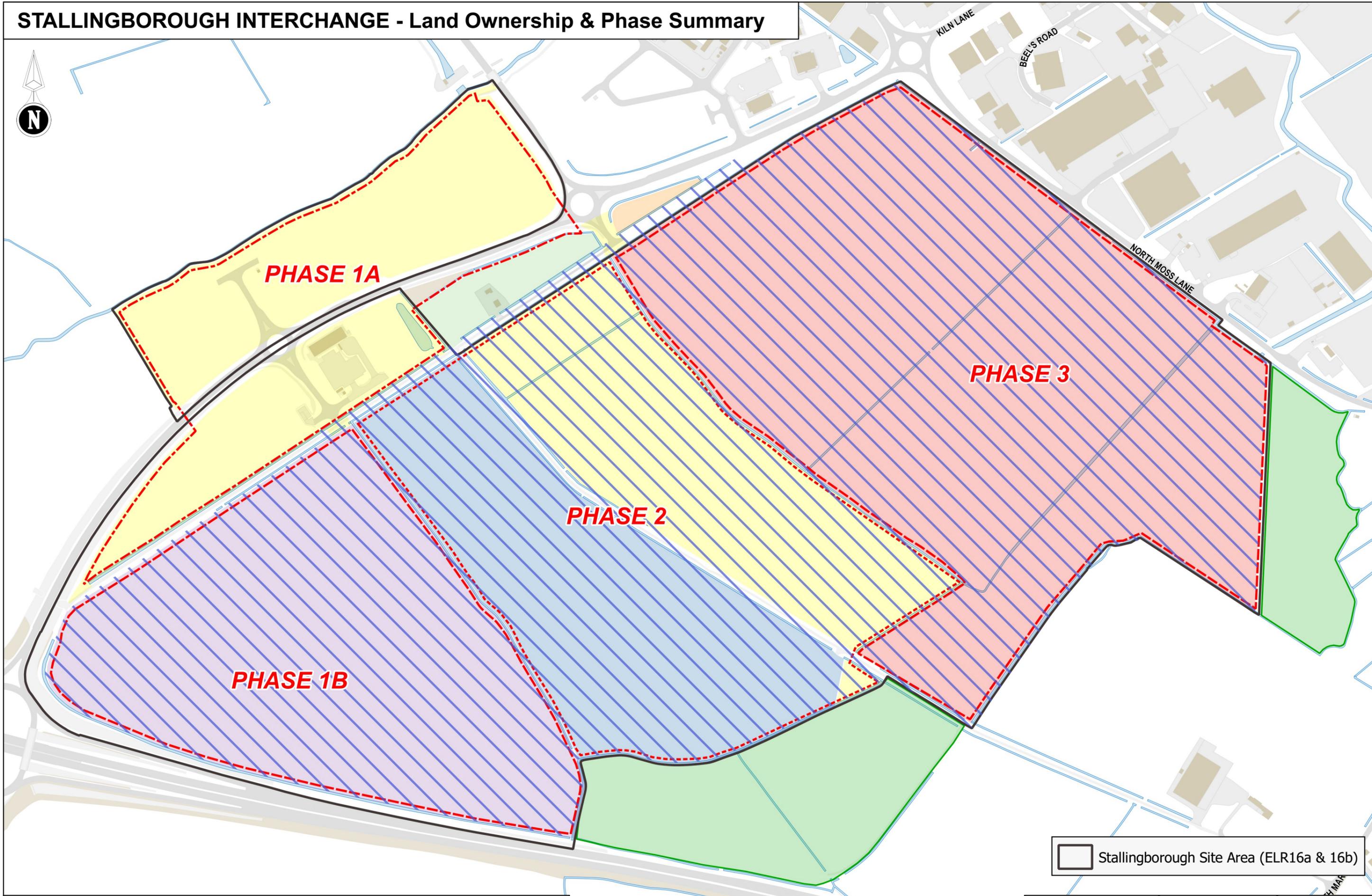
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Path / Filename : LandOwnership\_Phased 28\_11\_2023

Drawn by: R Brack

## **Appendix 2.0**

# STALLINGBOROUGH INTERCHANGE - Land Ownership & Phase Summary



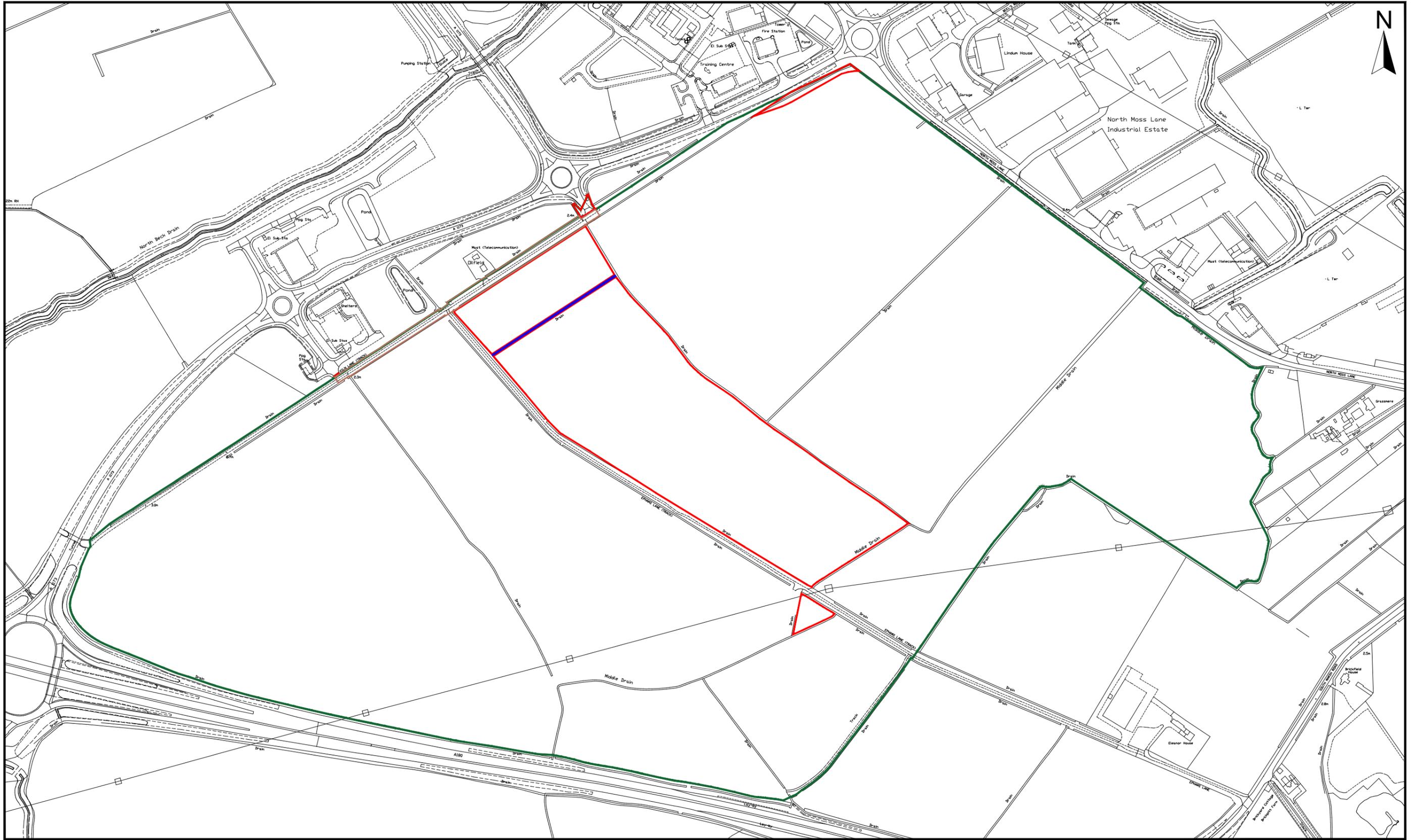
 Stallingborough Site Area (ELR16a & 16b)

100 0 100 200 300 400 500 m

Scale: 1:4,300 @ A3      Date: 29 - 11 - 2023



## **Appendix 3.0**



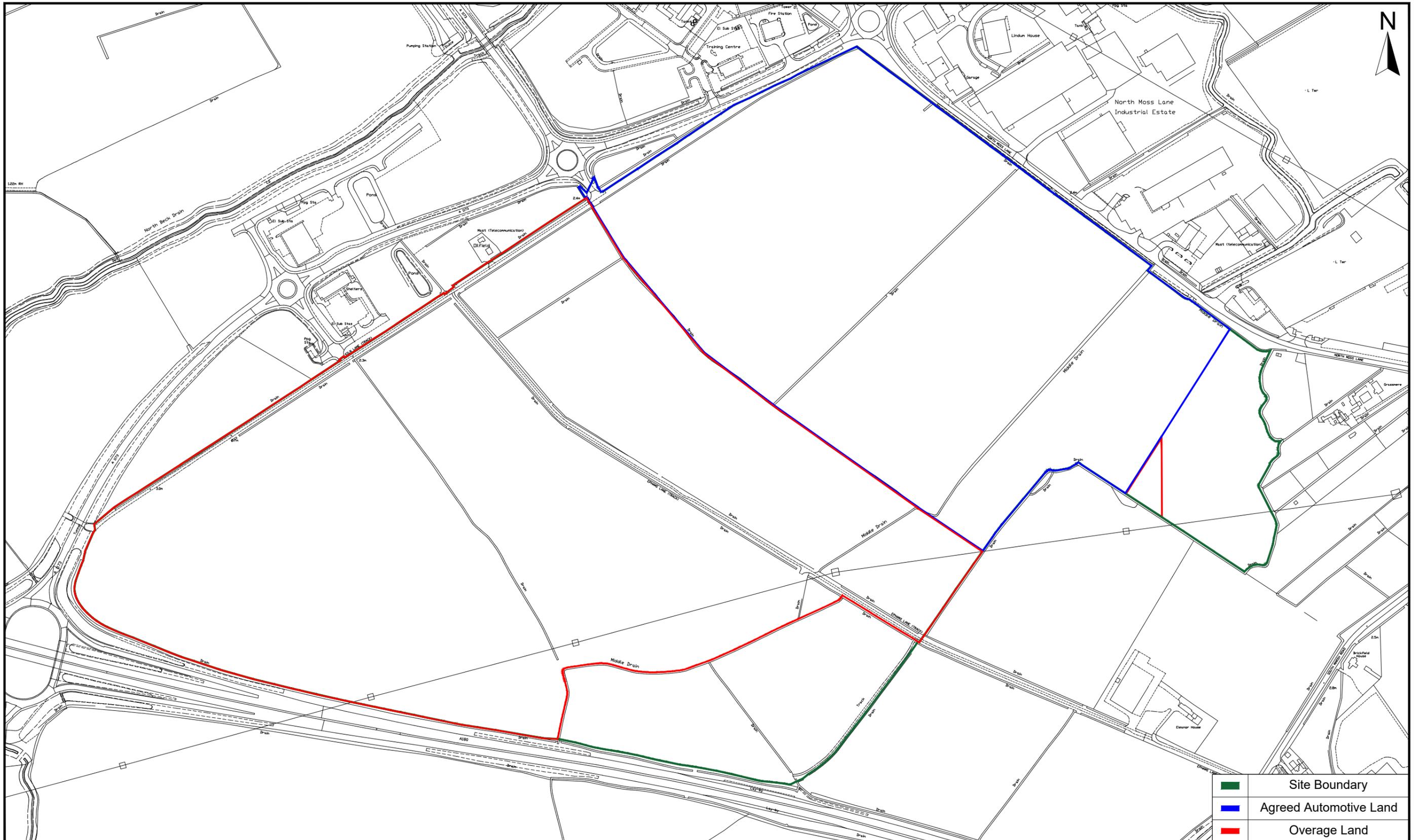
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Land at Stallingborough

Date	Scale	
29/11/2023	1:5,000 @ A3	
By	Drawing No.	Version
FRead	IM_Land_at_Stallingborough_Plan_1_Transfer	7

## **Appendix 4.0**



	Site Boundary
	Agreed Automotive Land
	Overage Land

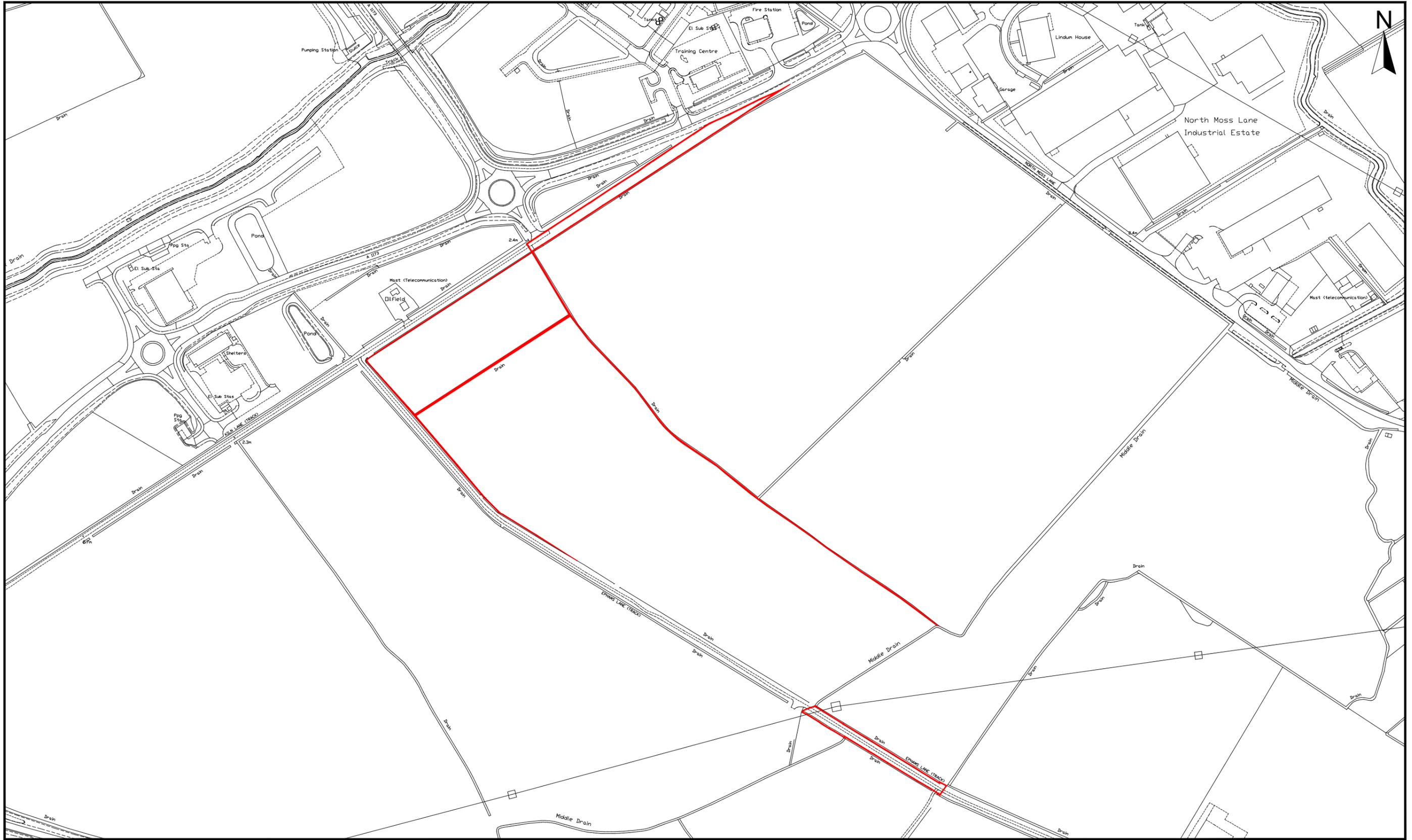
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Overage Plan

Date	Scale	
29/11/2023	1:5,000 @ A3	
By	Drawing No.	Version
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## **Appendix 5.0**



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CPO2 Plan

Date	Scale	
23/11/2023	1:4,000 @ A3	
By	Drawing No.	Version
FRead	CPO2_Plan	1